

LAW OFFICES

**FREILICH, HORNBAKER & ROSEN**

PROFESSIONAL CORPORATION

ARTHUR FREILICH  
ROBERT D. HORNBAKER  
LEON D. ROSEN  
TIMOTHY T. TYSON

10960 WILSHIRE BOULEVARD, SUITE 1220  
LOS ANGELES, CA 90024-3702  
TEL. (310) 477-0578 • FAX (310) 473-9277  
E-MAIL l.rosen@prodigy.net

PATENTS, TRADEMARKS & RELATED INTELLECTUAL PROPERTY MATTERS

**03/139**

**April 14, 2008**

Hon. Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

In re Application of:

Yong C. Kim, et al.

Serial No.: 10/613,199

Group Art Unit: 2832

Filed: July 03, 2003

Examiner: Marina Fishman

For: ADJUSTABLE SNAP ACTION SWITCH

Dear Sir/Madam:

Enclosed are the following:

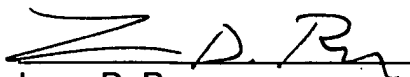
1. Petition for Revival Of An Application For Patent Abandoned Unavoidably Under 37 CFR 1.137(a).
2. 4 pages of SUMMARY OF CLAIMED SUBJECT MATTER
3. Copy of unstamped return post card.
4. Return Postcard

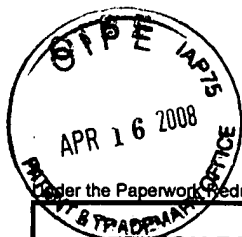
The Commissioner of Patents and Trademarks is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Account No. 06-1985.

I hereby certify that this paper or fee is being deposited with the United States Postal Service as First Class Mail on April 14, 2008 and is addressed to Attn: Office of Petitions, Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Respectfully submitted,

LDR/ks  
Encl.

  
Leon D. Rosen  
Reg. No. 21,077  
Attorney for Applicant



*Jim D. [Signature]*

Approved for use through 04/30/2008. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE  
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)</b>		<b>Docket Number (Optional)</b> <del>668-0116</del> <sup>20X</sup> 03/139	
First Named Inventor: Yong C. Kim		Art Unit: 2832	
Application Number: 10/613,199		Examiner: Marina Fishman	
Filed: July 03, 2003			
Title: ADJUSTABLE SNAP ACTION SWITCH			
Attention: Office of Petitions Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450			
NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282. <i>of the USPTO to receive, 20X</i>			
The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.			
<b>APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.</b>			
NOTE: A grantable petition requires the following items:			
(1) Petition fee.			
(2) Reply and/or issue fee.			
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995, and for all design applications; and			
(4) Adequate showing of the cause of unavoidable delay.			
1. Petition fee			
<input type="checkbox"/> Small entity – fee \$ _____ (37 CFR 1.17(l)). Applicant claims small entity status. See 37 CFR 1.27.			
<input checked="" type="checkbox"/> Other than small entity – fee \$ <u>510</u> (37 CFR 1.17(l)).			
2. Reply and/or fee			
A The reply and/or fee to the above-noted Office action in the form of Response to order from Office of Board of Appeals (identify the type of reply):			
Appeals			
<input type="checkbox"/> has been filed previously on _____			
<input checked="" type="checkbox"/> is enclosed herewith.			
B The issue fee of \$ _____			
04/17/2008 CNGUYEN2 00000005 061985 106 3199			
<input type="checkbox"/> has been filed previously on _____ 01 FC:1402 510.00 NA			
<input type="checkbox"/> is enclosed herewith.			

[Page 1 of 3]

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

**3. Terminal disclaimer with disclaimer fee**

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

**4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.**

**WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Leon D. Rosen  
Signature

Leon D. Rosen

Typed or printed name

10960 Wilshire Boulevard, Suite 1220

Los Angeles, CA 90024

Address

April 14 2008  
Date

21,077

Registration Number, if applicable

(310) 477-0578

Telephone Number

- Enclosure ☐ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☒ Additional sheets containing statements establishing unavoidable delay
- ☐ \_\_\_\_\_

**CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this correspondence is being:

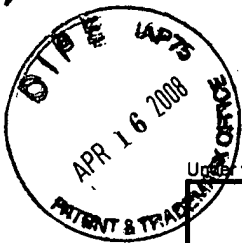
☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

April 14 08  
Date

Leon D. Rosen  
Signature

Typed or printed name of person signing certificate



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

Leon D. Rosen  
Signature

Leon D. Rosen

Typed or printed name

April 14 2008  
Date

21,077

Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

I, Leon D. Rosen, <sup>attorney for applicant</sup> state that in the above patent application, an appeal brief was filed September 23, 2005, an Examiner's Answer was mailed March 08 2006, and a Response To Examiner's Answer was mailed March 23, 2006. <sup>2PR</sup>

On April 30, 2007, the Board of Appeals issued an "Order Returning Undocumented Appeal To Examiner". The order stated that the "Summary of claimed subject matter" is deficient because "it does not map the independent claims to the specification", and that "an entire new brief need not, and should not, be filed. Rather, a paper providing a summary of the claimed subject matter... will suffice". The Order required the Examiner to "notify appellants to file a paper providing a summary of the claimed subject matter." The Order was received by Applicant on May 2, 2007.

On May 15, 2007, the undersigned sent the enclosed 4-pages which includes a SUMMARY OF CLAIMED SUBJECT MATTER, which is a response to the Order dated April 30, 2007. The cover page contains a signed certificate of mailing. A copy of the <sup>unstamped</sup> return post card is also enclosed. The next communication in the file is a Notice of Abandonment dated April 10, 2008 stating the reason is that "No reply has been received regarding the Defective Brief notice sent on 08/23/05". I spoke to the Examiner, Marina Fishman, on April 14, 2008 who informed me that she was notified of the abandonment a few months ago, called my office and did not reach anyone, and never called again.

Applicant mailed the Reply with the certificate of mailing on time. Applicant has no idea why the Board of Appeals did not receive it, or claims they did not receive it. One possibility is that the mail did not get to the US post office, that the US Post Office misplaced it, or that the department in the US Patent Office that receives mail misplaced it, with the mail dumped into the trash in each instance. Any such occurrence is very unlikely in any particular case, but might occur in a very small fraction of 1% of all cases, just as traffic accidents and deaths occur in a very small fraction of 1% of all auto trips. I do not remember any previous similar occurrence, of mailing a response to the US Patent Office and getting a notice of abandonment with no return post card. Any system has very rare, but actual, breakdowns, so any very rare breakdowns are

(Please attach additional sheets if additional space is needed.)

Form PTO/SB/61 (continued)

unavoidable. Thus, applicant petitions for revival of the present applications on the grounds that it was abandoned unavoidably.

If the US Patent Office finds that the above grounds do not support a petition to revive on the grounds of unavoidability then petitioner requests that the abandonment be found to be unintentional.

April 14, 2008

Leon D. Rosen  
Leon D. Rosen  
Attorney for Applicant  
Reg. No. 21,077